

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES - GENERAL

Case No. CV 08-8587 DSF (RZx)

Date 6/5/09

Title Michael Nathanson v. Cardtronics, Inc., et al.

Present: The Honorable	<u>DALE S. FISCHER</u> , United States District Judge
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Debra Plato

Not Present

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (In Chambers) Order to Show Cause Why Purported First Amended Complaint Should Not Be Stricken and Sanctions Should Not Be Imposed

On May 26, 2009, this Court granted a motion to dismiss the complaint, with leave to amend as to the second and third causes of action. On April 23, 2009, Plaintiff purported to file a First Amended Complaint ("FAC"). On April 24, 2009, the Court issued a Notice to Filer of Deficiencies, advising that, pursuant to General Order 08-02, Section V.C.1, initiating documents are to be manually filed. This Rule is necessary so the Court can insure that all counts and all parties are properly noted in the Court's files. On April 24, the Court issued an order striking the improperly filed FAC, ordering the proper filing of the document, and ordering that counsel comply with the Court's requirements.

Court staff has attempted unsuccessfully to contact counsel for Plaintiff on several occasions. The Court's Courtroom Deputy Clerk has personally advised Martin Aarons, the attorney whose login was used to submit the FAC, of the requirements of submitting both a paper copy of the FAC and a PDF version of that document. Aarons stated that he had not authorized the use of his login to submit the FAC. He stated that he would insure compliance with the Court's rules. Nevertheless, counsel has failed to file the PDF version of the document - which prevents viewing of the FAC. In a court of this size and number of filings, Court staff cannot be required to remedy counsel's filing deficiencies.

The Court notes that this is a putative class action. Counsel's repeated failure to

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follow Court rules and other conduct will be considered when determining whether counsel is adequate to represent a class.

Plaintiff and his counsel, Jeffrey M. Schwartz, as well as counsel Martin Aarons, are ordered to show cause in writing no later than June 15, 2009 why the First Amended Complaint should not be stricken, and why sanctions in the amount of \$500 should not be imposed based on counsel's failure to follow this Court's rules and the allegedly unauthorized use of login access. A hearing on this Order to Show Cause will be held on June 22, 2009 at 11:00 a.m. Counsel Schwartz and Counsel Aarons are to attend in person.

An adequate written response filed by June 15, submission of the PDF version of the FAC, and proof of payment of the sanctions to the Clerk of Court submitted by June 15 will be a sufficient response and will cause the matter to be removed from the Court's calendar without a hearing. Further failures to comply with this Court's Rules and Orders will result in increasing sanctions, including dismissal of the case.

IT IS SO ORDERED.